

California Private Attorneys General Act of 2004

Outcomes and Recommendations

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March 2021

Key takeaway from groundbreaking new research: PAGA's promotion of court action over agency action to remedy worker wage and hour claims has failed. Everyone loses when cases are resolved by court cases instead of by agency determination.

- 1) Workers get less and employers pay more.
- 2) PAGA lawsuits take over a half-year longer to resolve than PAGA claims decided by LWDA.
- 3) Lawyers are gouging the system to the detriment of worker recoveries.

MORE ON PRINCIPAL FINDINGS OF THE STUDY

- The current average payment a worker receives from a Labor and Workforce Development Agency (LWDA) decided case is 95% greater than for a PAGA case filed with a court: **\$4,100 from an LWDA-decided case, versus \$2,100 from a PAGA court case.**
- Even though workers are receiving higher awards from LWDA-decided cases, employers are paying out 60% less per award. **On average employers pay \$504,000 per LWDA-decided case and \$1,232,000 per PAGA court case.**
- LWDA-decided cases do not award attorneys' fees, which contributes significantly to the huge difference in award amounts between LWDA-decided cases and PAGA court cases. **Attorneys who file PAGA cases with a court are compensated with fees that represent 33% or more of the workers' total recovery, averaging more than \$405,000 per case.**
- Delays in obtaining recoveries are substantial. Workers wait on average for 15-months for their awards from LWDA-decided cases, and nearly **two years** for their awards from PAGA court cases.
- Letters of intent to file a lawsuit are often used to frighten employers into settling before a PAGA notice is filed with LWDA or a lawsuit is filed. These settlements are not reviewed by or reported to either LWDA or the courts. For this reason, the public will **never** have information on what workers receive, what the workers' lawyers receive, or what employers pay in connection with these settlements. **Most importantly, there is nothing to assure that workers have received what they are entitled to from these settlements.**
- Funding reserves accessible by LWDA and the agencies under its authority exist in the amount of more than \$113 million. These funds could serve to fund the creation of an alternative administrative framework.
- There is a disturbing pattern that has appeared over the last 5 years showing that, while the number of PAGA cases filed has remained relatively flat on average, ***the amount of employer penalties collected by LWDA--which likely follows the same trend as overall employer payouts--has increased by a factor of 6.***
- A PAGA exemption was legislated in 2019 for one sector of the economy— unionized construction. This is tantamount to union recognition that the PAGA process does not produce desirable outcomes, and employee redress of wage and hour violations can be improved with an alternative structure.